FILED
JAN 18 1941
CHARLES ELMORE CROPLEY
CLERK

Supreme Court of the United States

OCTOBER TERM, 1940.

No. 706

WILLIAM B. ROMANS AND EDNA M. HORAN,
Petitioners,

vs.

STATE OF MARYLAND.

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF MARYLAND AND BRIEF IN SUPPORT THEREOF.

ELDRIDGE HOOD YOUNG,
Counsel for Petitioners, William B. Romans and Edna M. Horan.

The Daily Record Co. Print, Baltimore.

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PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF MARYLAND.

To the Honorable, Charles Evans Hughes, Chief Justice of the United States, and the Associated Justices of the Supreme Court of the United States:

Your petitioners, (appellants in the Court of Appeals of Maryland) William B. Romans and Edna M. Horan, respectfully show and represent unto your Honors and pray that a writ of certiorari be issued to review the judgment of the Court of Appeals of Maryland, entered in the above entitled cause on, to wit: the 14th. day of November 1940, (R. 113).

I.

Summary and Statement of Matters Involved.

The following statement of fact and questions involved here are taken from the record of the trial in the Criminal Court of Baltimore City and the proceedings in the Court of Appeals of Maryland.

One of the petitioners (one of the appellants below) was a man, William B. Romans, who had been arrested and held by the committing magistrate for the action of the grand jury (R. 7-8) and then indicted with a woman, his sister, Isabelle Romans, alias Mrs. Warfield, alias Dolly Horan, alias Edna M. Horan, which indictment contained five counts, the first count, '*endeavoring to obstruct justice*', and the second, third, fourth and fifth counts charging, in varying forms, *conspiracy to obstruct justice*, (R. 13-19). Isabelle Romans, *alias* was presented by the grand jury before indictment and gave bail, (R. 11-12). The indictment was a consolidation of the two presentments against the man and his sister, (*attempt to obstruct justice*) and also charged *conspiracy* by them.

Edna M. Horan, the other petitioner, (also appellant below) was never indicted. She was arrested on a bench warrant charging her with *attempting to obstruct justice* and gave bail, (R. 19-20).

When William B. Romans and his sister, Isabelle Romans were called for trial to answer the indictment, (R. 29-32) the State's Attorney of Baltimore City substituted Edna M. Horan for Isabelle Romans who was discharged (R. 42-51).

Demurrers were filed by the petitioners herein and overruled (R. 3, 4, 5, Docket Entries, and 21-22) and both were convicted on three counts of the indictment; "1", obstructing justice, and "2" and "4", conspiracy, (R. p. 4 Docket Entries) by the Court without a jury.

Motions were then made specifically pointing out the proceedings contended to be illegal and violative of the Constitutional guarantees, (R. 23-28-35-39) which the Criminal Court of Baltimore City overruled, and on appeal the Court of Appeals of Maryland entirely ignored the contention of the petitioners in the *nisi prius* court and here, (R. 105-113) that the verdict of 'guilty' on the first, second and fourth counts and the judgments imposing fines and imprisonment were not the result of a fair and impartial trial, i. e. the petitioners here were convicted without due process of law, by a court not having jurisdiction of the parties or subject matter, without notice and without an opportunity to be heard.

The only reference to the contention of the petitioners that the constitutional guarantees of both the Federal and State constitutions were violated, that there was no 'due process of law', is, (R. 109):

> "A motion for a new trial was made and thereupon the accused filed successively a number of motions which were all denied, as was the motion for a new trial. The court agrees with the disposition made of the motions and finds no occasion to discuss but two further questions . . ."

II.

Questions Presented.

1. The petitioners were deprived of a fair and impartial trial, deprived of their liberty and property in violation of the law of the land, denied due process of law:

(a) In that they were both tried and convicted of conspiracy, for which Edna M. Horan, one of them, had not been indicted.

(b) In that the Criminal Court of Baltimore City did not acquire jurisdiction of either the person or the crime charged, when the judge presiding therein entered a verdict of guilty of conspiracy against both petitioners, for which crime one had neither been indicted nor charged.

(c) In that one of them, Edna M. Horan, convicted on charges of obstructing justice and of conspiracy, had been substituted for another woman, Isabelle Romans, (indicted by the grand jury, then dismissed and discharged by the trial court).

(d) In that it is violative of the 14th. Amendment of the Constitution of the United States (and Articles 21 and 23 of the Declaration of Rights of Maryland) for the Court of Appeals of Maryland to affirm a judgment of the Criminal Court of Baltimore City convicting the petitioners of *obstructing justice* and *conspiracy* for which several offenses or crimes both had neither been indicted or in any other manner charged.

2. That to substitute at the trial for one of two persons, indicted by a grand jury for offenses of obstructing

justice and conspiracy, another, who had not been indicted, arrested and informed of the offenses, and enter a verdict and judgment of guilty, confers jurisdiction of neither the person nor the subject matter of the crime alleged, and is a denial of *due process of law*, (14th. Amendment of United States Constitution); also is a denial of the *right to be informed of the accusation, and deprives a person of his property and liberty but by the Law of the Land*, (Declaration of and Rights of Maryland).

III.

Reasons Relied on for Allowance of the Writ.

(a) That the Court of Appeals of Maryland has decided a Federal question involving the construction and application of the 14th. Amendment of the Constitution of the United States in conflict with the applicable decisions of this Court.

(b) That the Court of Appeals of Maryland has decided a Federal question by denying due process of law to citizens of the State of Maryland by convicting petitioners of crime in violation of the 14th. Amendment of the Constitution of the United States.

Wherefore your petitioners respectfully pray that a writ of certiorari be issued out of and under the seal of this Honorable Court directed to the Court of Appeals of Maryland commanding that Court to certify and send to this Court for its review and determination, on a day certain to be therein named, a full and complete transcript of the record of the proceedings in cases numbered and entitled on its docket for the October Term 1940,

No. 2 William B. Romans, appellant, v. State of Maryland, appellee, No. 3 Edna M. Horan, appellant, v. State of Maryland, appellee, and that said judgment of the Court of Appeals of Maryland may be reversed by this Honorable Court, and that your petitioners have such other and further relief in the premises as to this Honorable Court may seem equitable, just and proper.

ELDRIDGE HOOD YOUNG,
Counsel for William B. Romans,
and Edna M. Horan, Petitioners.